

To: Arvin Ganesan/DC/USEPA/US@EPA[]
From: POLITICO Pro Energy <politicoemail@politicopro.com>
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By Talia Buford | 5/24/12 3:54 PM EDT

With help from Darius Dixon and Bob King.

OBAMA NOMINATES ALLISON MACFARLANE TO HEAD THE NRC: Macfarlane, a geologist and an associate professor of environmental science and policy at George Mason University, has testified before Congress about the unresolved technical issues surrounding Yucca Mountain. Senate Majority Leader Harry Reid previously failed to have her nominated to the NRC, making her a contentious candidate and most likely presaging a difficult renomination fight next year.

The White House: "The president has made clear that we need a strong NRC, and he believes Allison Macfarlane is the right person to lead the commission," said Clark Stevens, White House spokesman. "... Macfarlane understands the role that nuclear power must play in our nation's energy future while ensuring that we are always taking steps to produce this important energy source safely and securely. A strong and effective NRC is crucial to protecting public health and safety, promoting defense and security, and

protecting the environment, and we hope the Senate considers her nomination in a timely manner.”

Senate Majority Leader Harry Reid: “I am confident that like her predecessor, Dr. Allison Macfarlane will make preserving the safety and security of American citizens her top priority as chair of the Nuclear Regulatory Commission. ... The nuclear industry has a perfect opportunity to demonstrate a commitment to safety by supporting Dr. Macfarlane’s nomination.”

Welcome to Afternoon Energy. I’m your host, Talia Buford, and I’ve got it on good authority that I have a better poker face than Lady Gaga. It, however, didn’t save me from losing \$10 in high-stakes poker last night. Lessons learned: Being humble is overrated — when you win, celebrate, because when you lose no one will be there to wipe your tears. While I reach in my purse for loose change to buy back in, feel free to send me an email at tbuford@politico.com to add your best energy news tips to the pot. Also, double down on Twitter: @TaliaBuford, @morning_energy and @POLITICOPro.

SVINICKI WATCH: Now that a nominee has been offered to replace Jaczko, stay tuned for movement on the renomination of current NRC member Kristine Svinicki, whose term expires at the end of June.

— The Sierra Club has started an online petition urging senators against Svinicki’s renomination. “The commission needs members who will put safety first, and Svinicki has a record that proves she will not do this,” the petition says. The petition: <http://bit.ly/LIEsDF>

— Sen. Jim Inhofe says hearings on Svinicki’s renomination may begin after the Senate returns from next week’s recess.

COMMITTEE WANTS ANSWERS ON CYBER STANDARDS: Senate Commerce Chairman Jay Rockefeller wants to know why the American Gas Association abandoned a set of standards to protect natural gas control systems from cyberattacks, reportedly because of costs. Rockefeller gave AGA a deadline of June 7 to respond. The letter: <http://1.usa.gov/KOheuk>.

RALLY FOR CLEAN AIR: Environmentalists packed the Washington and Chicago agendas for hearings today on the EPA greenhouse gas standard for new power plants, and the Sierra Club liveblogged many of the comments (<http://bit.ly/LsT9Ex>). Dozens of people have posted on Lisa Jackson’s Facebook wall, most in support of limits on carbon pollution: <http://on.fb.me/JA6VLE>. (Erica Martinson detailed the changes EPA has made to the rule: <http://politico.pro/KCnOym> .)

From the feed: “@Sierra_Club: Looks like Big Coal paid about 30 people \$50 each to wear pro-coal shirts to EPA hearing in Chicago. #cleanair4kids <http://twitpic.com/9or8fi>.”

MISSOURI SEN. CLAIRE McCASKILL said she plans to “hold the line on the EPA.” The Quincy Journal: <http://bit.ly/LcU3cj>.

CHINA LEADS CARBON SURGE: Coal-heavy China spurred global carbon dioxide emissions to their highest-ever recorded level in 2011, offsetting declines in the U.S. and Europe, the International Energy Agency said today. “When I look at this data, the trend is perfectly in line with a temperature increase of 6 degrees Celsius (by 2050), which would have devastating consequences for the planet,” IEA chief economist Fatih Birol told Reuters. <http://reut.rs/JUE2JW>

MILITARY ENERGY SPENDING: Sen. John McCain says a “slim majority” on Senate Armed Services has approved an amendment to pare down the military’s energy agenda during the closed-door markup of the defense authorization bill. “We voted, I’m happy to say, to restrict the Department of the Navy to a reasonable approach rather than spending \$244 a gallon. We believe, at least a slim majority believes, that’s a job for the Department of Energy not the Department of Defense.”

CHU ON THE MOVE: Secretary Chu will visit Niskayuna, N.Y., on Friday to tour GE’s Global Research lab. That afternoon, he’ll also give the keynote at Rensselaer Polytechnic Institute’s commencement and receive an honorary degree.

KUDOS FOR NORTH DAKOTA: Oil regulations in North Dakota are a “model that leads the way” and strike a “good balance,” Jack Gerard, president and CEO of the American Petroleum Institute, told the Bismark Tribune: <http://bit.ly/JfzYxZ>.

BAKKEN TAX INCENTIVES DON’T SHIFT PRODUCTION: A new report from Headwaters Economics, a non-profit research group, found that though Montana’s tax rate is less than North Dakota’s, oil production there has declined and that on average, Montana collects \$800,000 less on the first three years of a Bakken oil well compared with North Dakota. “The main lesson is that despite Montana’s more favorable tax policies relative to North Dakota and the first successful application of horizontal drilling and fracking technology in the Bakken occurring in Montana, the state has not been able to overcome geology,” the report found: <http://bit.ly/JZVWZP>

TICK, TOCK: A watch on New Jersey Democratic Sen. Robert Menendez’s website tracks the costs taxpayers are bearing due to

Congress's failure to pass his legislation to end taxpayer subsidies to oil companies two years ago. Each day without the legislation costs taxpayers more than \$6.5 million, according to the "STOP" — Stop Taxpayer Oil Payouts — Watch. Watch time go by here: <http://bit.ly/LuqvWW>.

PAVILLION MAY GET CISTERNS: Wyoming is considering building water cisterns for homes that saw their water contaminated by natural gas, according to The Wyoming Tribune-Eagle. The state may get some financial support from Encana Corp. — which has denied links to the contamination — to pay to truck the water to the cisterns. Public comment will be solicited at a meeting May 31. The Tribune-Eagle: <http://bit.ly/MKlufk>.

ENCANA'S RESPONSE TO AE when asked if it had had any talks about cisterns: "We have not," a spokesman said. And, "Our focus at this time is on sound science."

CHINA FIRES BACK IN CLEAN ENERGY FEUD: China's Commerce Ministry says six U.S. renewable energy projects violated free-trade rules, but it gave no indication of whether Beijing might try to impose punitive measures. The ruling came after the U.S. Commerce Department proposed raising tariffs on Chinese solar equipment because of alleged dumping. AP: <http://bit.ly/LI7Gme>.

QUICK HITS

— Chesapeake Energy should have learned from Enron. Breaking Views: <http://bit.ly/MtTkm6>

— Goldman Sachs will invest \$40 billion over the next 10 years in renewable energy projects. Reuters: <http://trib.in/JV2pHI>

— Rapper Will.i.am traveled in a personal helicopter to attend climate talks in London, which "used 71.5 gallons of fuel and released three-quarters of a ton of CO2 into the atmosphere." The Telegraph: <http://tgr.ph/JV3I9c>

THE WIDE WORLD OF POLITICS

— Mitt Romney ran the state of Massachusetts for four years, but the Bay State rarely crosses his lips these days: <http://politi.co/KdCzfA>

— A new poll shows President Obama with a small lead over Romney among Florida, Ohio and Virginia voters. <http://politi.co/Ljm5PK>

— Looking as if he'll survive the recall, Wisconsin Gov. Scott Walker may emerge as a GOP hero: <http://politi.co/KXj0pl>

FOR A TASTE OF YOUR WHISKEY, I'LL GIVE YOU SOME ADVICE: One last gambling lesson — courtesy Kenny Rogers and the Muppets: <http://bit.ly/Lj8at6>.

** A message from America's Natural Gas Alliance: Who says hauling trash is a dirty business? Not Waste Management. The company is converting its Ohio fleet to run on natural gas. The result? Lower fuel costs. Nearly zero air particulates — and a quieter ride on those early morning routes. <http://bit.ly/MnxZe7> **

Stories from POLITICO Pro

Existing plants dropped from draft of EPA rule

Existing plants dropped from draft of EPA rule back

By Erica Martinson | 4/16/12 5:30 AM EDT

The EPA's apparent change of heart on plans to limit greenhouse gas emissions at existing power plants came during White House review of the agency's proposed greenhouse gas rule for new plants, according to documents obtained by POLITICO.

A draft version of the proposed rule for new plants' emissions repeatedly references the agency's controversial plans to eventually regulate greenhouse gases from existing plants.

But now agency officials say no such plans exist.

The plans were still alive in the draft proposal that EPA sent for review at the White House Office of Management and Budget on Nov. 7. "At a future date, EPA intends to promulgate emission guidelines for states to develop plans reducing [carbon dioxide] emissions from existing fossil-fuel-fired [electric generating units]," the draft says in the first of many references to future regulations for existing power plants.

EPA published its final version of the proposal in the Federal Register on Friday. POLITICO obtained the Nov. 7 draft — and a merged comparison of the two — through a Freedom of Information Act request.

The EPA publicly announced carbon dioxide limits March 27 for new power plants only, and the agency made extensive legal arguments to exempt any existing plants undergoing major construction projects.

Requiring CO2 emission cuts from existing power plants could be especially costly, and would inevitably fall mostly on comparatively dirty coal-fired plants. Republicans have called the recently proposed rule the "death of coal" and accused the EPA of planning to expand the rule to existing plants as soon as they turn their backs.

Even the EPA's decision to regulate emissions from new plants is not without controversy. Any future coal-fired power plants will be required to employ costly carbon capture technology to bring their CO2 emissions to the level of a combined-cycle natural gas plant.

EPA agreed to create the rule in a December 2010 settlement with several environmental groups, 11 states and two local governments.

EPA has said that setting standards for new plants comes in tandem with a statutory requirement to "establish emission guidelines that states use to develop plans for reducing emissions from existing sources," according to a fact sheet released with the 2010 settlement. Those detailed guidelines for states may be less stringent than for new sources, but would include expected timelines, EPA said.

David Doniger, the chief global warming lawyer for the Natural Resources Defense Council, still expects the agency to act on standards for existing plants.

"Existing power plants are not covered by this standard but the Clean Air Act requires EPA to follow up with requirements for those sources too," he said in March. "The proposal acknowledges this responsibility."

The final document makes a single reference to a future rulemaking: Several hundred pages in, the final rule says the proposal to limit greenhouse gas emissions "will also serve as a necessary predicate for the regulation of existing sources within this source category," under another section of the Clean Air Act.

But now, EPA officials are repeatedly going back to a new party line on greenhouse rules for existing plants: "No plans."

"We don't have plans to address existing plants," Administrator Lisa Jackson told reporters when releasing the rule. But she hedged, adding that if the agency proposed such a standard, it would be after an extensive public process.

EPA air chief Gina McCarthy later echoed Jackson. "We just indicated that we have no plans right now," McCarthy said at a House hearing when Rep. Joe Barton (R-Texas) asked her to elaborate on Jackson's statement.

"Sounds like President Clinton saying 'depends on what the definition of 'is' is,'" Barton said.

EPA spokesman Brendan Gilfillan declined to elaborate past pointing to McCarthy's statement that the agency has "no plans to address existing power plants." The White House did not comment.

EPA's March announcement of the proposed standards for new plants came with significantly less fanfare than the Obama administration gave the release of EPA's utility mercury and air toxics rule in December. At that time, Jackson held a packed news conference at a children's hospital and President Barack Obama issued a video address of congratulations.

On the day of the March power plant announcement, the president was out of the country, and the news of the day was dominated by the Supreme Court's consideration of the health care law.

In the rule's November draft, mentions of plans to deal with existing power plants come up over and over again.

For example, this sentence appears on Page 2 of the draft, but is deleted from the publicly proposed rule: "Clean Air Act section 111 also requires regulation of existing sources of certain pollutants." It adds that "regulation of new sources of those pollutants triggers a requirement that EPA also promulgate emission guidelines for existing sources."

Standards for existing plants are not set in the same way as for new plants, EPA explained in the draft. Instead, the Clean Air Act requires EPA to set a national standard and then calls "for states to develop plans that include standards of performance for those sources." If states fail to develop a plan, the federal government must develop one for them, EPA notes elsewhere in the draft — again, edited out of the final proposal.

"There are also opportunities to reduce emissions at existing fossil-fired plants," EPA said in the draft it sent for White House review, but not in the proposed rule. "For instance, the efficiency of much of the existing generation can be improved, lower emitting plants can be dispatched more often, and higher emitting plants can co-fire fuels, such as natural gas, with lower CO2 intensity."

In the draft, EPA also said modifications to power plants would be covered by the future rulemaking. But the final version strikes that mention as well.

Among less dramatic changes, the final proposed rule added more specific language explaining a 30-year average emissions standard meant to allow some new plants using carbon capture and sequestration to avoid potential difficulties of using the relatively new technology.

The rule proposed in March also added lengthy legal justification for combining previously separate power sectors under one rule, which is the mechanism the agency used to tie CO2 limits for coal-fired power plants to the emission rates of combined-cycle natural gas facilities.

And the rule that emerged from White House review included new language clarifying EPA's strategy for exempting units that begin construction within 12 months of Friday's Federal Register publication.[back](#)

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